

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

REBECCA BROWN, *et al.*,

Plaintiffs,

v.

TRANSPORTATION SECURITY
ADMINISTRATION, *et al.*,

Defendants.

Civil Action No. 2:20-cv-64-MJH-LPL

JOINT DISCOVERY STATUS REPORT

The parties hereby jointly file the following status report on the status of outstanding discovery issues in the above-captioned case.

On January 9, 2023, the parties conferred by telephone about steps necessary to complete “Phase 1” discovery involving keyword searches of field managers and additional headquarters employees. The parties discussed the custodian, search term, and sampling proposals laid out in Defendants’ November 9, 2022 letters, and reached sufficient agreement for Defendants to move forward. The Transportation Security Administration (TSA) has begun collection from 68 custodians and expects to transfer the results of the keyword searches to DOJ for loading into Relativity (an e-discovery review platform) in the near future. The Drug Enforcement Administration (DEA), which has already collected and loaded the 75 custodians into its version of Relativity, will apply the accepted search terms and begin document review shortly. Once the full volume of documents is identified and review is underway, Defendants will be better able to assess how long it will take to complete production of the responsive, non-privileged documents.

On December 14, 2022 (TSA), and January 13, 2023 (DEA), Defendants served their objections and responses to Plaintiffs’ Fourth Sets of Requests for Production. These “Phase 2”

requests seek documents regarding the named plaintiffs' incidents along with individual incidents nationwide since January 2014. TSA expects to produce its available documents regarding the named plaintiffs' incidents next week, and DEA expects to produce its available documents regarding the named plaintiffs' incidents by February 28, 2023. Defendants are exploring the functionality of the databases containing much of the requested information, and the parties have begun conferring about how to address Plaintiffs' requests in proportion to the needs of this case. Defendants' databases are generally not designed to facilitate mass extraction of data, and Defendants believe that much of the data, even if extracted, would require burdensome redactions, including law enforcement sensitive information not necessary to this case, Sensitive Security Information, confidential source information, and personally identifiable information of the travelers and others. Accordingly, Defendants expect to propose a sampling methodology that may allow the parties to collect representative information with much lower burdens. Plaintiffs will review and respond to Defendants' proposals.

Because the parties have been able to work out their current e-discovery differences, they have not yet needed the assistance of Special Master Cecilia R. Dickson. The parties anticipate that her assistance will be helpful with regard to finding practical solutions to address Plaintiffs' Phase 2 discovery without undue burden on the Defendants or undue restrictions on Plaintiffs' collection of relevant documents and information.

Also, as noted in the last status report, Plaintiffs have raised concerns regarding the sufficiency of the October 19, 2022, deposition at which TSA Senior Technical Advisor Domenic Bianchini testified. Plaintiffs are reviewing Defendants' January 26, 2023, letter regarding this topic. If needed, the parties will inform the Court of any unresolved disagreement over the deposition and re-engage in the Magistrate's procedure for handling discovery disputes.

The parties propose to file another Joint Status Report on March 31, 2023. The parties expect that the next status report will identify the time needed to complete Phase 1 discovery, and hope that the scope of Phase 2 discovery will be resolved. At that point, the parties expect to be in a position to set a schedule for completion of discovery.

Dated: January 27, 2023

/s/ Brian Morris (by permission)
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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2023, a true and correct copy of the foregoing document was served via electronic mail upon all counsel of record.

/s/ Galen N. Thorp